

FILED IN THE  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

Jul 26, 2018

SEAN F. MCAVOY, CLERK

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

CRAIG STEVEN COLEMAN,

Petitioner,

v.

DONALD HOLBROOK ,

Respondent.

NO: 4:18-CV-05047-SMJ

**ORDER DISMISSING PETITION**


By Order filed April 25, 2018, the Court advised Petitioner of the deficiencies of his federal habeas petition and directed him to amend within sixty days. ECF No. 5. Petitioner, a prisoner at the Washington State Penitentiary, is proceeding *pro se* and *in forma pauperis*; Respondent has not been served.

Petitioner did not comply with the Court's directive. Rather, by letter dated April 26, 2018, Petitioner admitted that he still needs to exhaust his state court remedies. ECF No. 7 at 1. Therefore, **IT IS ORDERED** that the petition is **DISMISSED without prejudice** for failure to exhaust under 28 U.S.C. § 2254(b)(1); *see O'Sullivan v. Boerckel*, 526 U.S. 838, 845 (1999).

1 To the extent Petitioner's request to "re-apply" again under the current  
2 circumstances," ECF No. 7 at 2, could be construed as a request to stay these  
3 proceedings and hold them in abeyance until after he has exhausted his state court  
4 remedies, he has failed to demonstrate that a stay is warranted under *Rhines v.*  
5 *Weber*, 544 U.S. 269 (2005). Petitioner is, of course, free to file a new and  
6 separate habeas action once he has exhausted his state court remedies. He should  
7 be mindful of the federal limitations period under 28 U.S.C. § 2244(d)(1)(A).

8 **IT IS SO ORDERED.** The Clerk of Court is directed to enter this Order,  
9 enter judgment, provide a copy to Petitioner, and close the file. The Court further  
10 certifies that pursuant to 28 U.S.C. § 1915(a)(3), an appeal from this decision could  
11 not be taken in good faith, and there is no basis upon which to issue a certificate of  
12 appealability. 28 U.S.C. § 2253(c); Fed. R. App. P. 22(b).

13 **DATED** this 26th day of July 2018.

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15 SALVADOR MENDEZ, JR.  
16 United States District Judge  
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